

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
AT NASHVILLE**

GREG ROSS, )  
Plaintiff, )  
v. ) No. 3:09-cv-01196  
STATE FARM FIRE AND CASUALTY ) Judge Campbell  
COMPANY, ) Magistrate Judge Knowles  
Defendant. )

**DEFENDANT STATE FARM FIRE AND CASUALTY COMPANY'S**  
**MOTION FOR SUMMARY JUDGMENT**

Defendant State Farm Fire and Casualty Company ("State Farm") moves this Court to grant it summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure because there is no factual dispute that the requirements of the appraisal provision in Plaintiff's homeowners insurance policy have been met and, therefore, the amount of Plaintiff's loss due to a frozen burst pipe has been set. Based on the record evidence, Plaintiff Greg Ross cannot raise a genuine issue of disputed material fact that (1) the appraiser chosen by State Farm improperly interfered with the appraisal process or the umpire's award, and (2) that the appraiser was State Farm's agent such that any improper conduct can be imputed to State Farm. State Farm, therefore, requests that this Court grant its motion and enter summary judgment in its favor.

In support of this motion, State Farm relies upon:

- (1) Memorandum of Law in Support;
- (2) Statement of Undisputed Material Facts; and
- (3) Notice of Filing with attached deposition excerpts and exhibits.

DATED this 27<sup>th</sup> day of September, 2010.

Respectfully submitted,

BAKER, DONELSON, BEARMAN, CALDWELL  
& BERKOWITZ, P.C.

By: *s/ Brigid M. Carpenter*

Brigid M. Carpenter

B.P.R. No. 18134

Baker Donelson Center  
211 Commerce Street, Suite 800  
Nashville, Tennessee 37201  
(615) 726-5600  
(615) 744-7341 (facsimile)  
*bcarpenter@bakerdonelson.com*

Attorney for Defendant State Farm Fire and Casualty  
Company

#### **CERTIFICATE OF SERVICE**

I hereby certify that on the 27<sup>th</sup> day of September, 2010, a copy of the foregoing was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. mail, first-class postage prepaid. Parties may access this filing through the Court's electronic filing system.

W. Gary Blackburn, Esq.  
Michael Clemons, Esq.  
Blackburn & McCune, PLLC  
101 Lea Avenue  
Nashville, Tennessee 37210

*s/ Brigid M. Carpenter*

Brigid M. Carpenter